

<b>Description</b>	County Planning Board November 10, 2009		
<b>Date</b>	11/10/2009	<b>Location</b>	County Planning Board
<b>Time</b>	<b>Speaker</b>	<b>Note</b>	
<a href="#">6:03:04 PM</a>	President Kerry White	Call to Order. Members Present: Kerry White, Marianne Jackson Amsden, C.B. Dormire, Don Seifert, Pat Davis and Doug Espelien. Members Absent: Susan Riggs, Mike McKenna, and Julien Morice. County Planners: Tom Rogers, Randy Johnson, Sean O'Callaghan and Recording Secretary Ada Montague	
<a href="#">6:03:37 PM</a>	President Kerry White	Public Comment	
<a href="#">6:03:51 PM</a>		There was no public comment on matters not on the agenda.	
<a href="#">6:03:55 PM</a>	President Kerry White	Approval of October 13, 2009 Minutes (TESS)	
<a href="#">6:04:06 PM</a>		The minutes stand approved as presented.	
<a href="#">6:04:12 PM</a>	President Kerry White	Planning Department Update	
<a href="#">6:04:21 PM</a>	Sean O'Callaghan, County Planner	Circulated the DRAFT Amsterdam/Churchill Community Plan. Announced the distribution of updated Subdivision Regulations and Middle Cottonwood Zoning Regulation. Noted an email that was forwarded to each member from Ralph Johnson inviting the Planning Board to a luncheon on November 17th, an RSVP is needed.	
<a href="#">6:06:21 PM</a>	Randy Johnson, County Planner	Noted the letter from Myra Schultz that went out in the packets regarding the statutory changes passed by the legislature, particularly regarding HB 486. The Planning Department and County Attorney's office is taking the initiative to move forward with those changes in our Subdivision Regulations with an amendment that we'd like to get done before the end of the year. Myra works on behalf of MACo and she conducted a workshop with the County Attorney's on the specific changes that were passed by the legislature regarding subdivision, planning and zoning. We are going to incorporate all of her provisions from section 12 - 17. A resolution of intention to initiate these changes will be considered by the County Commission on November 24th and we will follow with a noticed public hearing on adoption of those changes probably at the beginning of January. A lot of those changes that we're incorporating are housekeeping, we aren't creating new	

		policy. We are going to focus on those changes at this time.
<a href="#">6:09:44 PM</a>		Review of changes and discussion with staff.
<a href="#">6:11:58 PM</a>	President Kerry White	Consent Agenda
<a href="#">6:12:17 PM</a>	C.B. Dormire	Move we adopt the consent agenda.
<a href="#">6:12:27 PM</a>	Doug Espelien	Second.
<a href="#">6:12:32 PM</a>		Vote: Motion carried unanimously.
<a href="#">6:12:38 PM</a>	President Kerry White	Regular Agenda: Gravel Pit Task Force Presentation- Public Presentation and Discussion on the Gallatin County Task Force's Report & Recommendation on Long Term Strategies to Ensure Operations that Mine Sand & Gravel and Operations that Mix Concrete or Batch Asphalt are Conducted in a Manner that are Compatible with Existing Neighborhoods and Environmental Resources.
<a href="#">6:13:16 PM</a>	President Kerry White	There will be a staff presentation, followed by public comment, followed by board discussion. The Gravel Pit Task Force is looking for comments. No decision is needed at this time.
<a href="#">6:13:51 PM</a>	Tom Rogers, County Planner	Staff Presentation- Introduction
<a href="#">6:22:02 PM</a>	Heidi Jensen, Belgrade Planner	Staff Presentation- Overview of the process
<a href="#">6:23:37 PM</a>	Tom Rogers, County Planner	Staff Presentation- Objectives of the task force
<a href="#">6:32:23 PM</a>	Heidi Jensen, Belgrade Planner	Staff Presentation- Substantive changes from the interim regulation to the proposed regulation
<a href="#">6:40:13 PM</a>	President Kerry White	Noted his appreciation of the language on page 3, Section 4.3 B because it addresses the regulated property as well as the unregulated property. Also commented that Section 7 doesn't address the intent of the regulation as it was in 4.3 B.
<a href="#">6:42:47 PM</a>	Tom	Staff Presentation- Non-Compatible Uses: Appendix A

	Rogers, County Planner	
<a href="#">6:52:57 PM</a>	President Kerry White	Questioned some of the acronyms. Also stated that in the comments received tonight there seem to be two issues, the location of the pit, lighting, noise and whether they were batching asphalt on site and the haul routes and trucks accessing intersections, their Jake brakes, etc. The third issue raised in these comments has been the length of the term of the pit. In this site assessment it seems that you're addressing only the site itself and scaling that on a factor. You haven't included any haul routes as to a weight factor that is involved in the site assessment and/or term of the gravel pit being in operation. Inquired about the Task Force's discussion in this area.
<a href="#">6:55:06 PM</a>	Tom Rogers, County Planning	You bring up some global issues and I may need to refer to Don and Heidi to continue on. With that said that could be a part of that site assessment. One of the conversations that the task force had was the realization that the DEQ, the open cut mining permit, only addresses issues on site. They didn't look at the infrastructure, the roadway systems, the fugitive dust, etc. The crusher, the batch plant, and so on have all been issued their own individual permits for air quality through the air quality department. They didn't specifically do that. This is the start and then the analysis of off-site mitigation is in part why the Commission got involved with this issue to begin with. The problem is that it does go beyond, though Environment Assessments may help mitigate some of those things. Some of the requirements that the task force has looked at and has been a part of the submittal for a Gallatin County Conditional Use Permit got at those issues.
<a href="#">6:57:47 PM</a>	Tom Rogers, County Planner	Staff Presentation - Site Map: Permitting Zones
<a href="#">6:58:07 PM</a>	C.B. Dormire	Questions, discussion and clarification regarding the color code in the document.
<a href="#">7:00:45 PM</a>	Don Seifert, (speaking as)Chairman of the Gravel Pit Task Force	Offered thanks to all who were involved. Provided an explanation of the Permitting Zone Maps with comment on county-wide zoning, no zoning and partial zoning options. (These maps still need review by the Task Force.) This provides a workable alternative to county-wide zoning.
<a href="#">7:07:54 PM</a>	Heidi Jensen, Belgrade	Noted the comments needed by the Planning Board tonight are on any substantive changes, the proposed regulation as a whole, site assessment proposal and general comments on zoning to allow

	Planner	gravel operations in unzoned areas of the County.
<a href="#">7:09:03 PM</a>		Questions and discussion between presenters, staff and the Board regarding what the County will face if the Commission does not adopt the regulation versus how it will look if it is regulated and regarding the colored areas particularly the yellow zones.
<a href="#">7:11:17 PM</a>	Public Comment	Public Comment: Carol Lee Roark, Carl Hapcic, Graciella Marin, Jody Greiter, Charles Irvin, Tim Roark
<a href="#">7:34:55 PM</a>	President Kerry White	Public comment was closed with the option to reopen it at a later time.
<a href="#">7:35:13 PM</a>		Board discussion.
<a href="#">7:35:38 PM</a>	Marianne Jackson Amsden	Questioned the appendices and where the site assessment will be referenced within the regulation.
<a href="#">7:36:20 PM</a>	Heidi Jensen, Belgrade Planner	It is not referenced at this time. It is something that we're asking for comments on whether it should be continued on a staff level.
<a href="#">7:36:31 PM</a>	Marianne Jackson Amsden	Asked if staff or Don would be commenting on the other exhibits - the letter from Jackie Flikkema and the letter from the Montana Contractors Association (MCA)?
<a href="#">7:36:47 PM</a>	Heidi Jensen, Belgrade Planner	We attached it as an exhibit because Jackie could not attend the meeting due to her pregnancy. She could not vote by proxy due to Robert's Rules. Her comments were received after the vote. This is why we included how everyone voted so that you can understand how everyone was voting. The MCA letter was received prior to the vote and all members of the task force received a copy of it. We did use some portions of the MCA letter in the proposed regulation and was done at the Task Force. It is an important letter to recognize that they were reviewing the proposed regulation as well as many other people as we could. The National Realtors' Association reviewed the regulation and we do have comments back from them, but they are not public yet. The Gallatin Realtors' Association will have to release those comments to be made public and hopefully that will be done next week and we can get you a copy at that time.
<a href="#">7:39:48 PM</a>	Marianne Jackson Amsden	Commented on the MCA's concern about double bonding and the expertise of county employees.
<a href="#">7:41:26 PM</a>	Don Seifert	Clarified that the bonding required by the county is not for any work being done inside the pits, but only for roads and other impacts outside the site. Any bonding will be outside the pit and things not covered by the DEQ.

<a href="#">7:42:13 PM</a>	Marianne Jackson Amsden	Asked for additional clarification to be added to the report.
<a href="#">7:42:20 PM</a>	Heidi Jensen, Belgrade Planner	Noted, thank you.
<a href="#">7:42:50 PM</a>	Doug Espelien	Asked if generally speaking the industry is in support of the Task Force recommendations.
<a href="#">7:43:07 PM</a>	Don Seifert	Provided a discussion of votes and how they were structured: First vote was that the task force recommends that Gallatin County adopt zoning regulations to allow gravel pit operations in the unzoned portions of the county. The vote was structured so that if people had the opportunity if they did not like zoning to be able to say no we don't want you to zone and then it went on to say in the second vote, if you do zone we want it only to be for gravel pit operations. The third vote was and if you zone for gravel pits we want you to use these regulations and that was unanimous. The fourth one was to support the adoption of these regulations into existing zoning areas and that was also unanimous. The fifth vote was to recommend continued work on site assessment. In regards to No. 1, the industry members did not support it.
<a href="#">7:45:00 PM</a>	Doug Espelien	Is it fair to assume the industry as a whole would be supportive of the regulation if county wide zoning was done?
<a href="#">7:45:28 PM</a>	Don Seifert	Yes.
<a href="#">7:45:30 PM</a>	Doug Espelien	And if we don't do county-wide zoning will they not support it?
<a href="#">7:45:45 PM</a>	Don Seifert	I am not sure, because what we specifically talked about was county-wide zoning to allow gravel pits. I could guess, but I am not sure.
<a href="#">7:48:10 PM</a>	C.B. Dormire	Section 7.1(b) significant impact on neighboring properties- is the idea that it is better to write it in or let it develop as part of the process?
<a href="#">7:51:13 PM</a>	Don Seifert	Yes. The site assessment is a mechanism we think will remove some of the emotional aspects of the proposals. Areas in the valley floor may score fairly high due to the amount of incompatible uses. Future decision makers will have a baseline. It would continue to be a work in progress.
<a href="#">7:53:09 PM</a>	C.B. Dormire	The non-locational aspect of the whole matter which aren't dealt with on this draft might well be important whichever way this goes. On page 5 of the DRAFT zoning regulation. Section 5.7, please

		clarify (between, numbering, drafting error). Section 6, no Attachment A- does that mean there is no recommendation from the Task Force as to what the geographic boundaries of the district would be?
<a href="#">7:56:33 PM</a>	President Kerry White	I talked to Heidi about that. In the first packet it had a map, but no exhibit. This map is not a correct map because there are actually changes being contemplated in the Four Corners area so it is not actually a true reflection, but it is being made and it will be an attachment when it is completed.
<a href="#">7:57:33 PM</a>	C.B. Dormire	So a recommended map is coming. Okay. What is the concept? Is it just get the unzoned areas or what at this stage?
<a href="#">7:58:20 PM</a>	Don Seifert	The final map will be up to the commission. They will get to choose if it is the full county, a one mile buffer around existing zoning, all the zoning districts, or no zoning at all.
<a href="#">7:58:50 PM</a>	C.B. Dormire	The commission will draw the map. Got it. DRAFT Section 7.1(b)- words "will not have" and "nearby".
<a href="#">8:00:21 PM</a>	Heidi Jensen, Belgrade Planner	We spent significant time debating that language with the Task Force. The county attorney reviewed the language and the language must read as stands to remain legal.
<a href="#">8:00:44 PM</a>	C.B. Dormire	The words "will not" is a very certain, high standard, that might be very difficult to determine. I would recommend a little more thought into this as well as the use of "nearby". What does that actually mean? I recommend defining these terms. Check references within the document. Section 7.2, following the diagram there is a paragraph- intent/objective- we heard some compelling testimony about informing themselves unsuccessfully prior to purchasing property. This addresses their concerns and I think it is all to the good. I noticed there is no sign required to delineate the DEQ area which might have helped and I am thinking an expansion to DEQ of signage requirements might be helpful, or something DEQ could do to better inform the public. Section 7.3 there is a concept of a "permanent permit" seems like a long time. What does a permanent permit mean? Why permanent instead of long term?
<a href="#">8:06:38 PM</a>	Don Seifert	The long-term permit could potentially be a 30-year permit being reclaimed back to pasture or residential. Permanent is for those operations who want the right to mine forever.
<a href="#">8:07:42 PM</a>	C.B. Dormire	My visceral reaction is that forever is too extreme in a permitting process. Section 7.5.ii requires a LUP?
<a href="#">8:09:10 PM</a>	Tom Rogers,	Yes. There are a series of conditions for CUPs and the LUPs help with their enforcement.

	County Planner	
<a href="#">8:10:06 PM</a>	C.B. Dormire	No other conditions will be imposed with the LUP?
<a href="#">8:10:17 PM</a>	Tom Rogers, County Planner	Correct. It is just an insurance vehicle for the CUP conditions.
<a href="#">8:10:36 PM</a>	C.B. Dormire	Please define the LUP as such in the document.
<a href="#">8:11:32 PM</a>	President Kerry White	Section 7.5- check numbering
<a href="#">8:11:50 PM</a>	Heidi Jensen, Belgrade Planner	Noted, thank you.
<a href="#">8:11:59 PM</a>	C.B. Dormire	7.6(b)- I didn't find any indication of who grants extensions? Who will give that permission, the applicant?
<a href="#">8:12:38 PM</a>	Heidi Jensen, Belgrade Planner	Correct, the applicant. There will be a standard form to enable the extension process.
<a href="#">8:13:04 PM</a>	C.B. Dormire	Attachment F, Page 3- is there any way other than zoning to achieve this?
<a href="#">8:14:01 PM</a>	Don Seifert	No.
<a href="#">8:14:04 PM</a>	C.B. Dormire	Attachment F, Page 4- the second sentence- what is the mechanism to cause amendments to be the case?
<a href="#">8:14:38 PM</a>	Don Seifert	An amendment has to go through the same steps as we are doing now.
<a href="#">8:14:59 PM</a>	C.B. Dormire	Is that due to a change in the zoning document?
<a href="#">8:15:09 PM</a>	Don Seifert	Our understanding is that there is no way to limit a future legislative act. That's why we recommended the CUP process.
<a href="#">8:17:08 PM</a>	C.B. Dormire	Amendments are limited to gravel pit zoning, what is the mechanism to limit those amendments?
<a href="#">8:17:28 PM</a>	Don Seifert	The Commission and the general public.
<a href="#">8:22:14 PM</a>	Doug Espelien	The interpretation I had was that there seems to be a lack of enforcement of existing regulations. Is the contention the lack of



		enforcement or do they want additional regulations?
<a href="#">8:23:12 PM</a>	Don Seifert	Open cut mining review was admittedly broken by DEQ. In addition, they only deal with inside the permitted area. The county wanted to participate through the CUP process to mitigate impacts on areas outside the site. The law limits the county in many ways without a CUP. There is a big disconnect between filing a complaint with the county vs. DEQ. The CUP process brings local control from the state to us, which is what I am in favor of. There are huge differences between Jordan and Gateway, MT. The state regulations aren't able to address those differences. We are not imposing higher standards, we are just making sure they get enforced appropriately. If you are in an area where there is some conflict we need a way to take a look at it.
<a href="#">8:28:13 PM</a>	Doug Espelien	The heavy hand of government regulating businesses is a big concern of mine. Have some of the Montana Contractors Association concerns been resolved?
<a href="#">8:29:05 PM</a>	Don Seifert	They have been addressed and their concerns will be taken into consideration as we move forward. We made some substantive changes, but we probably didn't address all of them.
<a href="#">8:29:38 PM</a>	Patti Davis	Not affecting property values: There is not any way to guarantee this- I recommend education of realtors and buyers that pits could extend their time frame of use.
<a href="#">8:31:10 PM</a>	Don Seifert	Certainly a goal. There is an education component of the report that hopefully the realtors will pick up. In regards to "permit creep"- there is no way to identify what the future steps are for a pit to expand. By allowing a CUP greater than what they originally need, it protects both the operators and the incoming residential development. Operators don't want to have to bond for all of it, just the part they are mining. If we get them a CUP that's bigger than what they are bonded for or permitted for through DEQ, we can forewarn the public.
<a href="#">8:32:42 PM</a>	Patti Davis	They may just want to sign what they own.
<a href="#">8:32:51 PM</a>	Don Seifert	A lot of operators don't own, just lease the property. It is a way to make sure it gets signed and safeguards the public and allows the operator the flexibility he needs.
<a href="#">8:34:12 PM</a>	Susan Riggs	I'm going to limit my comments to the staff suggested action questions one through four. The changes in the proposed zoning regulation versus the interim regulation are certainly a step in the right direction. In terms of comments on the regulation as a whole, I like to read the exact language of a regulation but I didn't do that in this case but I am going to have a ton of comments on the actual regulation when I see the official draft of the regulation. Comments



		<p>on the site assessment proposal: I think that it is a good idea and has merit and is worth pursuing. Comments on zoning to allow gravel operations in the unzoned areas of the County - I have a question, this map that we've been looking at on the screen (the planning plus one-mile radius boundary zoning) - is this one of the potential options that you were talking about earlier? [That is what the map could be. The Commissioners stated that they'd like to see if this is a workable solution rather than just the whole County being zoned.] One option would be the entire County (go through a CUP), another option would be whatever is in green on this map would have to go through DEQ (only), and whatever is in yellow would have to go through a CUP and whatever is in red is off limits all together. The third option is just the planning boundaries without the one-mile radius. The fourth option is to do nothing. My comment on that is that it seems like the Planning Districts certainly should be boundaries and whether or not there is a one-mile radius around them it would be important to see, even if it is just a dashed line, it would be important to see the new boundaries of Gallatin Gateway and Amsterdam/Churchill so we know what we're talking about for the future as well.</p>
<a href="#">8:37:10 PM</a>	Marianne Jackson Amsden	<p>I am in favor of the substantive changes made from the interim zoning regulation with a few minor exceptions: On page 7, section B, I notice that in the letters C and D, they have the statement that if there are significant impacts the applicant shall enter into a written agreement with Gallatin County providing for mitigation including the provisions of financial security for the identified impacts. I would be in favor of having that statement up with B also, I'm not sure why that was left out?</p>
<a href="#">8:38:31 PM</a>	Heidi Jensen, Belgrade Planner	<p>How would you put it in B?</p>
<a href="#">8:38:41 PM</a>	Marianne Jackson Amsden	<p>It is a lofty ideal to protect property values. I recommend having a way to mitigate for B or just don't allow the permit. Page 8, extensions should be open for public comment.</p>
<a href="#">8:41:04 PM</a>	Don Seifert	<p>They are.</p>
<a href="#">8:41:09 PM</a>	Marianne Jackson Amsden	<p>Okay that needs to be more clear.</p>
<a href="#">8:41:18 PM</a>	President Kerry White	<p>Says may, not shall, but it should be shall.</p>
<a href="#">8:41:24 PM</a>	Don Seifert	<p>Allows some flexibility.</p>

<a href="#">8:41:34 PM</a>	Marianne Jackson Amsden	"If the person" under revocation or modification- maybe "person" should change to CUP holder?
<a href="#">8:42:55 PM</a>	Susan Riggs	Doesn't the CUP run with the property not with the company?
<a href="#">8:43:19 PM</a>	President Kerry White	It depends on how the CUP is granted. It can be either way.
<a href="#">8:43:26 PM</a>	Tom Rogers, County Planner	Generally it goes with the land.
<a href="#">8:44:35 PM</a>	C.B. Dormire	It is addressed in the regulation.
<a href="#">8:44:43 PM</a>	Marianne Jackson Amsden	Clarify that the county bonding would be separate from DEQ bonding. 2- public comment and task force findings this is a good idea. 3- in favor of the site assessment proposal. 4- do it for the whole county so the document can be used regardless of growth trends. Public comment- implementing Appendix A into the document is not appropriate always, also I agree we need local oversight. Routes are addressed in the Good Neighbor Policies (appendix A), another item could address haul route impacts.
<a href="#">8:49:25 PM</a>	C.B. Dormire	1. Subject to my previous comments I think the changes are generally good. I found the public testimony compelling. State regulation isn't working and the goal of the task force to create consensus. 2. site assessment proposal and good neighbor policy I am inclined to think if there is reasonable clarity in the draft regulations, it would be better to use the site assessment proposal as a framework for the commission to determine conditions to mitigate effects rather than locking them into overly-detailed regulatory requirements. 4. don't create economic incentives to move problems from one place to another.
<a href="#">8:50:58 PM</a>	President Kerry White	1. Page 3, Section 4.2(d)- adequate mitigation needs to be defined- better word would be "reasonable." Protect property value of regulated property is not as well addressed in regulation as neighboring properties. 4.4(d) mitigate significant adverse impacts. there is no definition of "significant", change to "reasonable mitigation." Section 7.1 (b-d) all say will not have "significant impacts." I like the wording of 7.4 better which says "to reduce" and "to mitigate." May be proper to readdress 7.1. Section 5.19- haul routes described on site plan? Section 8.3 administrative remedies- weather can be problematic here- violation fees & timing should be adjusted to address extenuating circumstances. Section 8.9- appeals- pretty standard language?

<a href="#">8:57:08 PM</a>	Heidi Jensen, Belgrade Planner	Yes.
<a href="#">8:57:11 PM</a>	President Kerry White	Grammar corrections have been given to staff previously. Good Neighbor Policy No. 19- signage needs to have a specific distance. I think its a good document. 2. Site assessment good thing to proceed with, but I think the factor of time, length of pit operation, if there is an opportunity for extension of time or expansion of boundaries should be a factor of the site assessment as well as possible off-site impacts. Work in progress. 3. Zoning to allow gravel operations. I am for allowing DEQ to regulate gravel pits rather than the county. I think the state has failed. The state should step up and enforce what they are allowing. Mining, forestry and agriculture is a right and we need those resources to prosper, develop, and grow.
<a href="#">9:01:59 PM</a>	Don Seifert	In regards to No. 4., I respectfully disagree with Kerry. DEQ does not have local jurisdiction over roads. I am more in favor for zoning the whole county not in portions for several reasons, but mainly to make it a level playing field and give industry the opportunity to all compete evenly. While I would prefer that the whole county gets zoned, I can also appreciate the one-mile buffer. From an industry standpoint, though, it does not level the playing field for the whole county.
<a href="#">9:06:28 PM</a>	Marianne Jackson Amsden	Site assessment should include length of operation time. Perhaps there is a way to have a better score for those who agree not to have an end date.
<a href="#">9:07:19 PM</a>	Heidi Jensen, Belgrade Planner	That would take away private property rights.
<a href="#">9:07:28 PM</a>	Marianne Jackson Amsden	Maybe make it optional?
<a href="#">9:07:34 PM</a>	Heidi Jensen, Belgrade Planner	We could not enforce it.
<a href="#">9:07:41 PM</a>	Doug Espelien	3. The pits that seem the most controversial seem to be the ones in Gateway, inappropriate routes, speeding, etc. As an observation, I believe most of that traffic coming out of the pit are independent contractors. How do you regulate them? Will the operator be expected to enforce them? 4. Zoning is a slippery slope.

<a href="#">9:10:00 PM</a>	President Kerry White	I agree with the Montana Contractors Association- when you start doing site evaluations on different impacts you really need some expertise within the county to make the decisions. The County should be prepared to hire a professional expert. This may mean more tax dollars towards more staff. Are we opening ourselves up to more litigation because we don't have that expertise? If so, what would the cost be?
<a href="#">9:11:48 PM</a>	Don Seifert	What would be the cost if the County does not do something? If we rely on the State to protect our water, air, etc. we don't have much protection.
<a href="#">9:12:19 PM</a>	President Kerry White	Is DNRC involved?
<a href="#">9:12:26 PM</a>	Don Seifert	DNRC is involved in regulating water. NEEPA enforced by DEQ. We are not proposing increased standards, we are just making sure the standards are being enforced. The state system is broken and we have a lot of gravel pits waiting to be permitted. Thank you very much for all your input.
<a href="#">9:14:18 PM</a>	C.B. Dormire	Wastewater Committee Update: Engineering contract is signed and Stahly is starting to gather information and the LWQD is pretty close to having a complete draft of the entire report.
<a href="#">9:14:51 PM</a>	President Kerry White	Other Business
<a href="#">9:15:21 PM</a>	Board	Meeting adjourned.

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